

Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

DALLAS BUYERS CLUB, LLC,

Plaintiff,

v.

TYLER MADSEN, an individual; and
IAN STRAWN, an individual;

Defendants.

Civil Action No. 14-CV-1153RAJ

JOINT STATUS REPORT AND
DISCOVERY PLAN

This Status Report and Discovery Plan is filed by Plaintiff and Defendant Ian Strawn through their respective counsel in response to the Court's June 30, 2015 Order.

1. Statement of the Nature and Complexity of the Case

Plaintiff alleges copyright infringement of its copyrighted motion picture through the BitTorrent file sharing protocol. Defendant has denied liability for the claims and has asserted affirmative defenses and a counterclaim. Plaintiff denies Defendant's affirmative defenses.

2. Deadline for Joining Additional Parties

The parties propose that additional parties be joined by November 16, 2015.

3. Referral to Magistrate Judge

The parties do not consent to a referral of this matter to a full-time magistrate judge.



1 **4. Proposed Discovery Plan**

2 The parties suggest the following discovery plan:

3 **(A) FRCP 26(a) Initial Disclosures**

4 Initial disclosures were exchanged on July 28, 2015.

5 **(B) Subjects, Timing and Potential Phasing of Discovery**

6 Without waiving any objections to the relevance or admissibility of information and
7 documents implicated by the description of topics, the parties believe that the subject matter of
8 their discovery may include the following:

- 9
- Copyright application and registration materials
 - 10 • Correspondence and other documents relating to communications between the
11 parties
 - 12 • Computer hardware and router used with IP address
 - 13 • Plaintiff's investigative technologies, methods and records
 - 14 • Claims asserted and defenses raised by the parties
 - 15 • Damages

16 The parties do not believe that discovery should be conducted in phases or be limited to or
17 focused upon particular issues.

18 **(C) Electronically stored information**

19 The parties believe that discovery will implicate the exchange of electronically stored
20 information.

21 **(D) Privilege issues**

22 The parties believe that privilege logs should be exchanged for any claimed privileged
23 material that existed prior to commencement of the lawsuit. The parties do not believe that
24 privilege logs should be exchanged for any claimed privilege materials created after
25 commencement of the lawsuit, except that in the event Plaintiff claims that communications with
26 or materials prepared by its investigator are privileged, Defendant requests that it understand the

1 nature of the communications or materials claimed to be privileged sufficient to allow Defendant
2 to object to such claim of privilege.

3 **(E) Proposed limitations on discovery**

4 The parties do not believe that any changes should be made to the limitations on discovery
5 imposed under the Federal and Local Civil Rules, or that any other limitations should be imposed.

6 **(F) Discovery related orders**

7 The parties believe that a Protective Order under FRCP 26(c) or comparable agreement
8 may be required to limit the disclosure of confidential, commercially sensitive information and
9 documents such as financial and customer records.

10 The parties are not presently aware of any other orders that should be entered by the Court
11 under FRCP 26(c) or under Local Rule CR 16(b) and (c).

12 **5. Local Rule 26(f)(1) issues**

13 The parties offer the following statements regarding Rule 26(f)(1):

14 **(A) Prompt case resolution**

15 The parties propose to undertake ADR as soon as mutually agreeable ADR can be
16 scheduled.

17 **(B) Alternative dispute resolution**

18 The parties believe that mediation is the preferred ADR method.

19 **(C) Related cases**

20 Plaintiff is not aware of any related cases, apart from what has been previously noted in
21 the pleadings of record. Defendant is aware that plaintiff has filed many substantially similar cases
22 in this Court and other U.S. Courts. Some of the judgments, orders and findings made in these
23 cases may be related to this case.
24
25
26

(D) Discovery management

The parties will work together to minimize discovery disputes. Parties have agreed to service via email, with response dates extended by three days per FRCP 6. The agreement on email service provides an alternative acceptable form of service in addition to the other traditional forms of service (e.g., mail, hand delivery) that are provided for under the Rules. Should any email with attachments exceed 10 MB in size, the Parties have agreed to either (a) divide the attachments into separate emails of no more than 10 MB each, or (b) serve using one of the other traditional forms of service.

(E) Anticipated discovery sought

See 4(B) above.

(F) Phasing motions

The parties do not anticipate any phasing motions.

(G) Preservation of discoverable information

Parties have taken steps to preserve relevant information and documents.

(H) Privilege issues

See 4(D) above. Also, the parties agree to follow FRE 502 regarding inadvertent production.

(I) Model Protocol for Discovery of ESI

The parties believe at this stage that only modest, targeted requests may be required for certain email. The parties agree to adopt the Model Protocol.

(J) Alternative to Model Protocol

The parties offer no alternative to the Model Protocol because the parties accept the Model Protocol.

6. Date for Completion of Discovery

The parties believe that fact discovery can be completed by January 29, 2015.

7. Bifurcation

The parties see no need to bifurcate any issues.

8. Pre-Trial Statements and Pre-Trial Order

The parties have no specified changes to the local rules.

9. Individualized Trial Program in LR 39.1 or 39.2

The parties decline the Individualized Trial Program.

10. Suggestions for Shortening or Simplifying the Case

The parties agree to proceed in good faith and to meet and confer as necessary.

11. Date Ready for Trial

The parties believe that this matter should be ready for trial by April 18, 2016.

12. Trial by Jury

A jury trial has been requested.

13. Number of Trial Days Required

The parties anticipate that trial of this matter will require 2-3 court days.

14. Names, Addresses and Telephone Numbers of Trial Counsel

Plaintiff: David A. Lowe, WSBA No. 24453

Lowe@LoweGrahamJones.com

LOWE GRAHAM JONES^{PLLC}

701 Fifth Avenue, Suite 4800

Seattle, Washington 98104

T: 206.381.3300

F: 206.381.3301

Defendant: Benjamin Justus, WSBA No. 38,855

brj@lybeckmurphy.com

LYBECK PEDREIRA & JUSTUS^{PLLC}

7900 SE 28th St., Fifth Floor

Mercer Island, WA 98040

T: 206.230.4255

F: 206.230.7791

1 **15. Complications for trial counsel**

2 Counsel is presently unaware of any complications.

3 **16. Service of all Parties**

4 Service has been accomplished for all named parties.

5 **17. Scheduling Conference**

6 The parties do not believe that a scheduling conference is required.

7 **18. Fed. R. Civ. P. 7.1 and LR 7.1 disclosures**

8 Plaintiff filed its Fed. R. Civ. P. 7.1 and LR 7.1 disclosure August 1, 2014.

9 **19. Judiciary's Pilot Project on Cameras**

10 Plaintiff declines participation. Defendant has no objection to participation.

11 DATED this 31st day of July, 2015.

12
13 s/ David A. Lowe, WSBA No. 24,453

14 Lowe@LoweGrahamJones.com

15 LOWE GRAHAM JONES^{PLLC}

16 701 Fifth Avenue, Suite 4800

17 Seattle, WA 98104

18 T: 206.381.3300

19 F: 206.381.3301

20 *Attorneys for Plaintiff*

21 s/ Benjamin Justus, WSBA No. 38,855

22 brj@lybeckmurphy.com

23 LYBECK PEDREIRA & JUSTUS^{PLLC}

24 7900 SE 28th St., Fifth Floor

25 Mercer Island, WA 98040

26 T: 206.230.4255

F: 206.230.7791

Attorneys for Defendant